

REMARKS:

Claims 19-21 are currently pending in the Application. Claims 19-21 stand rejected under 35 U.S.C. § 112, second paragraph.

By this Amendment, the Applicant has amended independent claims 19-21 in an effort to expedite prosecution of this Application and to more particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. In addition, the Applicant has added new claims 25-42 to more particularly point out and distinctly claim the Applicant's invention. With respect to new dependent claims 25-42 each of these new dependent claims includes limitations similar to those of now cancelled dependent claims 2-4, 8-10, and 14-16. By making these amendments, the Applicant make no admission concerning the merits of the Examiner's rejection, and respectfully deny any statement or averment of the Examiner not specifically addressed. Particularly, the Applicant reserves the right to file additional claims in this Application or through a continuation patent Application of substantially the same scope of originally filed claims 1-24. No new matter has been added.

REJECTION UNDER 35 U.S.C. § 112:

Claims 19-21 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, the Examiner asserts that "it is unclear if the 'cumulative demand value' associated with the 'second planning horizon' is the same or different from the 'cumulative demand value' which was previously recited and associated with the 'first planning horizon.'" (12 August 2005 Office Action, Page 2). The Applicant respectfully disagrees. Nonetheless, the Applicant has amended independent claims 19-21 in an effort to expedite prosecution of this Application and to more particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. The Applicant has

made an earnest effort to contact the Examiner by telephone for additional guidance, as recommended by the Examiner. (12 August 2005 Office Action, Page 2). However, since the Applicant was unable to contact the Examiner, prior to the three month statutory date, the Applicant respectfully requests that the Examiner call the undersigned at (817) 447-9955, if the Examiner has additional comments or suggestions on the allowable subject matter of the subject Application.

In addition, the Applicant has added new claims 25-42 to more particularly point out and distinctly claim the Applicant's invention. With respect to new dependent claims 25-42 each of these new dependent claims includes limitations similar to those of now cancelled dependent claims 2-4, 8-10, and 14-16. By making these amendments, the Applicant does not indicate agreement with or acquiescence to the Examiner's position with respect to the rejections of these claims under 35 U.S.C. § 112, as set forth in the Office Action. Particularly, the Applicant reserves the right to file additional claims in this Application or through a continuation patent Application of substantially the same scope of originally filed claims 1-24.

The Applicant respectfully submits that amended independent claims 19-21 are considered to be in full compliance with the requirements of 35 U.S.C. § 112. The Applicant further submits that amended independent claims 19-21 are in condition for allowance.

With respect to new dependent claims 25-42: claims 25-30 depend from amended independent claim 19; claims 31-36 depend from amended independent claim 20; and claims 37-42 depend from amended independent claim 21. As mentioned above, amended independent claims 19-21 are considered to be in full compliance with the requirements of 35 U.S.C. § 112. Thus, new dependent claims 25-42 are considered to be in condition for allowance for at least the reason of depending from an allowable claim. Thus, the Applicant respectfully requests that the rejection of claims 19-21 under 35 U.S.C. § 112 be reconsidered and that claims 19-21 and 25-42 be allowed.

CONCLUSION:


In view of the foregoing amendments and remarks, this Application is considered to be in condition for allowance, and early reconsideration and a Notice of Allowance are earnestly solicited.

Although the Applicant believes no fees are deemed to be necessary; the undersigned hereby authorizes the Commissioner to charge any additional fees which may be required, or credit any overpayments, to **Deposit Account No. 500777**.

Please link this application to Customer No. 53184 so that its status may be checked via the PAIR System.

Respectfully submitted,

11/14/05
Date


James E. Walton, Registration No. 47,245
Brian E. Harris, Registration No. 48,383
Steven J. Laureanti, Registration No. 50,274
Daren C. Davis, Registration No. 38,425
Michael Alford, Registration No. 48,707
Law Offices of James E. Walton, P.L.L.C.
1169 N. Burleson Blvd., Suite 107-328
Burleson, Texas 76028
(817) 447-9955 (voice)
(817) 447-9954 (facsimile)
jim@waltonpllc.com (e-mail)

CUSTOMER NO. 53184

ATTORNEYS AND AGENTS FOR APPLICANT